

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO  
ALBUQUERQUE, NEW MEXICO**

**CLERK'S MINUTES  
BEFORE THE HONORABLE ALAN C. TORGERSON**

DEFENDANTS:

TYPE OF HEARING: BAIL REVIEWDANA JARVISCASE NO. 05-CR-1849 JHDATE & TIME 11/7/05 @ 1:30 pm - 3:35 pm

INTERPRETER \_\_\_\_\_

CLERK: Mary Lou Gonzales**NAMES AND TITLES OF OTHER PARTICIPANTS:**AUSA JAMES BRAUN

JUDITH ROSENSTEIN ( X ) RET

Abbott Jon Aiden Marr, 3rd Party Custodian

Richard Stark SA DEA

\_\_\_\_\_ ( ) APPT ( ) RET

Mike Albers SA IRS Criminal Investigation

\_\_\_\_\_ ( ) APPT ( ) RET

PTS OFFICER Ben Aragon**TAPE NO.****SPEAKER****TAPE NO.****SPEAKER**05-029 ACT2135Cross by Rosenstein@ 253Court/Rosenstein05-30 ACT410Direct (Fr. Marr)001Redirect by USA545Cross by USA75Direct by USA (Albers)812Court/Counsel re Exhibits232Cross & proffer Rosenstein1061Direct by USA (Stark)771proffer - Braun865Court's ruling

**HEARING RESULTS/FINDINGS:** Court takes judicial notice of the proffered testimony of counsel, the supplemental memorandum to the pre-trial services report, and various written letters on behalf of deft; Deft tenders two additional letters for court's consideration - Letter from Tucson, AZ attorney, William G. Walker, and a letter from Mila Kerwin, mother of deft's child. Witness Fr. Marr Sworn and testifies; Gov't Witness Agent Stark sworn and testifies; Gov't tenders Exhibits A thru J and two reports: Report dtd 10/27/05 by DEA Agent Hella and Report dtd 4/13/02 by DEA Agent Stark; defense asks for an opportunity to review govt's exhibits prior to testimony; court grants deft's request. (Short recess) Witness DEA Agent Stark sworn; Gov't Exh. A is NM Dept. Motor Vehicle Driver's License Summary for Dana Jarvis; Gov't Exh. B is NM Dept Motor Vehicle Driver's License summary for Todd Ward

a/k/a Dana Jarvis. Report by DEA Agent Hella of Traffic Citations issued as to deft Dana Jarvis. Deft objects to Agent Hella's Report. Court sustains deft's objection and will not take judicial notice of Agent Hella's report. Govt's Exhs. C-G are Insurance documents: Exh C - Farmer's Ins. Declarations; , Exh. D - Farmers Ins. Check to Todd J. Ward; Exh E - Farmer's Check to Todd J. Ward; Exh F. Farmers Ins. Check to Todd J. Ward (Ins. Checks all made out to Todd Ward and deposited into Dana Jarvis's bank account); Exh. G - PNM Check to Todd Ward; Exh H - deposit slip of checks deposited into Dana Jarvis' bank account; Exh J - Box rental w/keys at UPS Store rented by Dana Jarvis' sister-in-law. Exh. I - Agent Albers time line re: property exchanges/transfers between Langlois, Reber Boulton, Sophi Hibbard, Todd Ward, & Dana Jarvis. Gov't Witness Agent Albers sworn and testifies. Deft objects to Govt's Exhs. D, E, F, G, & H; Court admits Govt Exhibits A, B, C, D, E, F, G, H, I & J. Reports from Agent Hella and Agent Stark returned to the gov't; Agents reports will not to be a part of the Court record.

**COURT'S RULING:** Court takes judicial notice of the Pre-Trial's Supplemental Report and their recommendation to detain deft. The Court has reservations about Fr. Marr being a third party custodian for deft as proposed.

Court finds defendant has not overcome the presumption pursuant to 18 U.S.C. §3141(e). By a preponderance of the evidence, particularly as it relates to the testimony of Agent Stark and Agent Albers, deft Jarvis used an alias, which raises a concern whether or not deft would return for court proceedings if released.

Further, the Court also finds based on the testimony of Agents Stark and Albers, the tape recordings played in Court, and the exhibits presented; there is clear and convincing evidence that deft is a danger to the community; There are no conditions which can be fashioned by the Court at this time. Therefore, Deft's Motion is not well-taken and deft Dana Jarvis' motion is denied. Court remands deft to the custody of the U.S. Marshal.

All original Govt Exhibits were returned to AUSA James Braun in open court.

Deft requests original letters be kept by the Court as part of the record. Letters were sent to Records for filing on the correspondence side of the file.